

1 THE WITNESS: And that when I then prepared the
2 amendment that went to John Dille, I think I was trying to
3 be precise and exact with what the staff had asked for.

4 JUDGE CHACHKIN: All right. Now, the letter not
5 only went to Mr. Hicks, it also went to --

6 THE WITNESS: Mr. Watson.

7 JUDGE CHACHKIN: -- Mr. Watson.

8 THE WITNESS: Right.

9 JUDGE CHACHKIN: Who is the chief financial
10 officer of Pathfinder, is he not?

11 THE WITNESS: Yeah, I think that's --

12 JUDGE CHACHKIN: Mr. Dille's confidant.

13 THE WITNESS: Well, I think he's secretary-
14 treasurer.

15 JUDGE CHACHKIN: He's also chief financial
16 officer.

17 THE WITNESS: Okay.

18 JUDGE CHACHKIN: And he's a chief advisor to Mr.
19 Dille, is he not?

20 THE WITNESS: I'm not -- I mean, I know he's
21 involved with a lot of the Dille deals. I don't know if
22 that's -- if he's characterized as titles or functions in
23 that way or not.

24 JUDGE CHACHKIN: So did you not by this letter put
25 him on notice, put Mr. Watson on notice, as well as Mr.

1 Hicks, that the Commission was concerned about the financing
2 by Mr. Dille for his children?

3 THE WITNESS: Yes, that letter would have said
4 that to Bob Watson. My understanding from documents in
5 there or later on is that that letter never got to Bob
6 Watson or to John Dille.

7 JUDGE CHACHKIN: Then you had a conversation -- do
8 you know for a fact whether or not Mr. Watson discussed this
9 letter with Mr. Dille or not?

10 THE WITNESS: No, I don't.

11 JUDGE CHACHKIN: Now, with respect to the February
12 22, 1994, amendment, which is five days -- your conversation
13 with the Commission employee was on the 17th, was it not?

14 THE WITNESS: I think that's correct, yeah.

15 JUDGE CHACHKIN: So this is the very day of the
16 conversation, this is your recollection of what the staff
17 wanted.

18 Now, your amendment five days later, is that
19 consistent with your statement to Mr. Hicks and Mr. Watson
20 as to what the staff wanted?

21 THE WITNESS: It's consistent with what I think
22 the staff wanted. Number one, I don't think I sent that to
23 them on February 22nd. That's the day they signed it. I
24 don't know if it went to them on the 17th, 18th, 19th, 20th,
25 what date precisely, but I think that was an accurate

1 reflection of what the staff wanted in the amendment form.

2 JUDGE CHACHKIN: Now, you spoke To Mr. Dille, did
3 you not, before --

4 THE WITNESS: My recollection is yes I did.

5 JUDGE CHACHKIN: And your testimony is that in
6 your conversation with Mr. Dille you in no way informed him
7 that the Commission was interested in to what extent he was
8 financing his children's purchase of the station?

9 THE WITNESS: Correct. In now way did we talk
10 about whether he could loan money to the children.

11 JUDGE CHACHKIN: What did you talk about then?

12 THE WITNESS: He took this -- yes, I think he took
13 the original form of this that had signature places for him
14 and for his father. He took the amendment and we discussed
15 whether we could delete his father's signature because his
16 father was ill and in poor health. And I told him that yes
17 we could, and amended the document so that it only referred
18 to -- only needed to be signed by John and that he
19 represented things on behalf of himself and his father. I
20 made that change.

21 JUDGE CHACHKIN: And that was the extent of the
22 conversation?

23 THE WITNESS: To my recollection, that's correct.

24 JUDGE CHACHKIN: You didn't discuss at all the
25 substance of the amendment?

1 THE WITNESS: No, not -- I kind of thought it
2 spoke for itself, so no I didn't.

3 JUDGE CHACHKIN: And Mr. Dille didn't ask you what
4 it is that the Commission was looking for? What exactly --

5 THE WITNESS: No.

6 JUDGE CHACHKIN: -- was he signing? He didn't ask
7 you that? What does it mean what I'm signing? What am I
8 signing? He didn't question you about that?

9 THE WITNESS: You know, from -- I know that from
10 the way John Dille and Pathfinder operate their stations
11 from the years I've represented them, I don't think John's
12 involved in the day-to-day operation of those stations.
13 He's involved at, you know, a policy level, so I don't think
14 that would present any problems for him. And I assume that
15 he wasn't going to finance or guarantee the acquisition of
16 the station by Hicks Broadcasting, he didn't have any
17 problem with that too. I mean, that's what it say.

18 JUDGE CHACHKIN: So what it said there is that
19 "This is to advise the Commission that either I nor my
20 father will finance or guarantee the purchase of the station
21 by Hicks Broadcasting."

22 Mr. Dille did not question you as to what is it is
23 that the Commission is seeking?

24 THE WITNESS: No.

25 JUDGE CHACHKIN: What information the Commission

1 is seeking and why?

2 THE WITNESS: No, I don't believe he did. Again,
3 I assume that that was a clear sentence.

4 JUDGE CHACHKIN: Well, if it's so clear, I don't
5 know why we're here in controversy today.

6 And you, despite your statement of February 17th,
7 you didn't ask him whether or not he was involved in the
8 financing of Dille's children?

9 THE WITNESS: Of his own -- of his children.

10 JUDGE CHACHKIN: Yes.

11 THE WITNESS: No, we didn't -- we didn't discuss
12 that at that time.

13 JUDGE CHACHKIN: In fact, according to your
14 testimony, you learned for the first time in 1996 that Mr.
15 Dille was involved in the financing of his children?

16 THE WITNESS: That's my -- that's when I became
17 aware of it, yes.

18 JUDGE CHACHKIN: You did know for a fact, of
19 course, that the Dille children were going to have a
20 minority interest?

21 THE WITNESS: Yes.

22 JUDGE CHACHKIN: Did you know anything about the
23 Dille children, where their money was coming from, how old
24 they were, where the money was coming from or any of that?

25 THE WITNESS: I -- I -- I knew their ages because

1 we had that in the -- I knew generally their ages because
2 they were close to the age of my children.

3 JUDGE CHACHKIN: How old is that? How old were
4 they?

5 THE WITNESS: In their early, late, mid -- well,
6 there is three of them. I think they range from maybe
7 around 30 to around 20, in that range. As I say, I know
8 that John has had a trust for the children for a number of
9 years. I know they have stock in Pathfinder and maybe
10 perhaps in Truth. I can't say precisely what they have
11 stock in, but they have interests in those, in those
12 companies. I think at least two of them were employed. One
13 of them, the youngest may have still been in school. I
14 think one or both of the older one had worked at different
15 Pathfinder or Truth companies. I think I knew all of that.

16 JUDGE CHACHKIN: But you didn't ask Mr. Dille how
17 are they going to acquire the minority interest? How are
18 they going to make these payments?

19 THE WITNESS: Well, I think --

20 JUDGE CHACHKIN: What arrangements do we have to
21 make? None of this occurred to you to ask Mr. Dille in any
22 of the conversations with him prior to 1996?

23 THE WITNESS: No, the -- the agreement called for,
24 you know, Hicks Broadcasting to pay Booth over time on the
25 note. It wasn't a -- it wasn't, you know, where the members

1 were making direct payments. It was going to come from, you
2 know, whatever source Hicks Broadcasting would come up with
3 money for. You know, they may have gone to an independent
4 bank to borrow money.

5 JUDGE CHACHKIN: Well, if they were going to go to
6 a bank and it was going to be bank financing, and you were
7 preparing the application, wouldn't you have to know that in
8 order to say that they're financially qualified?

9 THE WITNESS: No, I don't -- I mean, I -- you --
10 that question on the form are you financially qualified, you
11 don't normally put any information in as to the basis of
12 their qualification.

13 JUDGE CHACHKIN: No, because you're warranting to
14 the Commission that they have sufficient funds for the
15 financing.

16 Now, presumably before you check it off or advise
17 them that it's okay for them to check it off, you would want
18 to know what the source of that financing is so you are not
19 misrepresenting fact to the Commission, wouldn't you?

20 THE WITNESS: Generally where I know who -- you
21 know, that it's a sophisticated clients, somebody like David
22 Hicks, who has been in the broadcasting business, I would be
23 comfortable if he put that down, and I wouldn't sit there
24 and ask him behind, okay, what is the basis for this
25 certification. That's just not the way I've operated.

1 JUDGE CHACHKIN: But you knew, you knew that the
2 minority stockholders would have to put in that interest,
3 put in some money, didn't you?

4 THE WITNESS: They -- I think at the time of that
5 there is an operating agreement that governs how that LLC is
6 to operate. I don't think that operating agreement came
7 into being until shortly before the closing. It just wasn't
8 a document that had been negotiated and sign off on. And I
9 believe under that agreement there is a very little capital
10 that the members have to put up. So, I mean, it's not like
11 under that agreement a large revenue drain on any of the
12 members that started this company.

13 JUDGE CHACHKIN: Well, the point of the matter is
14 they have to be able to say that they have sufficient
15 sources to put up 49 percent of the cash necessary to
16 purchase the station, don't they?

17 THE WITNESS: No, I don't --

18 JUDGE CHACHKIN: Under the Commission's rules?

19 THE WITNESS: No, I think that Hicks Broadcasting
20 is certifying that it has the financial ability to purchase
21 the station.

22 JUDGE CHACHKIN: And Hicks Broadcasting is basing
23 its certification on the funds to be provided by its
24 individual members, is it not? That's what they are relying
25 on for funds. They're not relying on bank financing.

1 They're relying --

2 THE WITNESS: Well --

3 JUDGE CHACHKIN: -- funds to be supplied by the
4 individual members, Mr. Hicks and the minority interests.

5 THE WITNESS: That -- when you fill out that form,
6 there is no -- there is no expectation, I don't think, at
7 that time as to each of the members is going to put up if
8 the purchase price was \$660,000 over time, each one of them
9 is going to have to come up with, you know, the children's
10 49 percent of that, and David with 51 percent of it.

11 The financing would come from any number of
12 different sources. In this case, from the operation of the
13 station and the cash flow that WRBR was able to generate
14 over time as it turned out to be where the bulk of the money
15 came from.

16 JUDGE CHACHKIN: Well, they did not know at that
17 time when they filed the application what the station was
18 going to generate.

19 THE WITNESS: Well, I guess --

20 JUDGE CHACHKIN: So when they were certifying to
21 the Commission that they had sufficient funds, the funds
22 they were relying on was the funds from the individuals in
23 the LLC; isn't that right?

24 And what you're telling me is that you did not
25 question, either in connection with the financial

1 certification or in connection with your understanding of
2 what the Commission asked for, you made no -- you didn't
3 raise any questions at all with Mr. Dille concerning to what
4 extent he was going to be involved in the financing for his
5 children?

6 THE WITNESS: Correct.

7 JUDGE CHACHKIN: And Mr. Dille, in turn, signed
8 this statement without asking you whether -- what the
9 Commission was asking for here in terms were they -- were
10 they concerned about how the station was being financed?

11 THE WITNESS: I don't -- no, I don't believe he
12 asked a question about that. He looked at that language and
13 was satisfied with it, I assume.

14 JUDGE CHACHKIN: All right, I have no further
15 question.

16 MR. GUZMAN: Brief redirect, Your Honor.

17 JUDGE CHACHKIN: Mr. Crispin, do you have any
18 questions?

19 MR. CRISPIN: Just one question.

20 CROSS-EXAMINATION

21 BY MR. CRISPIN:

22 Q Mr. Campbell, on behalf of Niles Broadcasting,
23 there was a -- just fill in one gap for me if you can. As I
24 understood your testimony before lunch, the arrangement
25 between -- the arrangement that never happened between Booth

1 and Pathfinder got all the way up to a point where drafts of
2 an asset purchase agreement were prepared; is that correct?

3 A That's my recollection. Yeah, I believe they did.

4 Q Explain to me, because I have not seen it anywhere
5 in this case, how did the circumstance of the newspaper
6 cross-ownership issue rear its ugly head in this scenario?

7 A When we first -- when the issue of Pathfinder
8 acquiring WRBR first came up, I think in the early stage I
9 went and got a copy of the contour map from the Commission
10 files for WRBR, and determined that the -- I think it's the
11 one millivolt contour of WRBR encompassed all of Elkart
12 where Truth Publishing had a newspaper, and that put the
13 issue of newspaper cross-ownership into play right from the
14 start.

15 Q So before the asset purchase agreements were
16 prepared and drafted?

17 A I -- you know, whether those were going on
18 contemporaneously, it's possible, but it was at an early
19 stage, you know, in late spring of '93 that all that
20 developed.

21 MR. CRISPIN: Okay. Thank you very much, Mr.
22 Campbell.

23 JUDGE CHACHKIN: Any redirect?Mr.

24 MR. GUZMAN: None, Your Honor.

25 JUDGE CHACHKIN: You're excused, Mr. Campbell.

1 THE WITNESS: Okay.

2 (Witness excused.)

3 MR. WERNER: Your Honor.

4 JUDGE CHACHKIN: Yes.

5 MR. WERNER: We call Eric Brown.

6 MR. SHOOK: Your Honor, would it be possible to
7 take a five-minute break?

8 JUDGE CHACHKIN: Yes, we'll take a five-minute
9 recess.

10 (Whereupon, a recess was taken.)

11 JUDGE CHACHKIN: Go back on the record.

12 Would you raise your right hand, please?

13 Whereupon,

14 ERIC BROWN, JR.

15 having been first duly sworn, was called as a witness herein
16 and was examined and testified as follows:

17 JUDGE CHACHKIN: Please be seated.

18 DIRECT EXAMINATION

19 BY MR. WERNER:

20 Q Good afternoon.

21 Could you please introduce yourself?

22 A My name is Eric Brown, Jr.

23 Q Mr. Brown, how old are you?

24 A Fifty-eight.

25 Q Could you tell us a little bit about your

1 education? Where did you get your undergraduate degree?

2 A University of Michigan. I graduated in 1962.

3 Then I went to the University of Michigan Law School;

4 graduated in 1965.

5 Q Are you currently employed?

6 A Yes, I am.

7 Q Where would that be?

8 A I'm a principal with the firm of Miller, Canfield,
9 Paddock & Stone.

10 Q And how long have you been practicing?

11 A I've been practicing since 1965.

12 Q So by my count, that would be 32 - 33 years?

13 A Thirty plus years.

14 Q Miller Canfield, is that large firm?

15 A Miller Canfield is the largest firm in Michigan.
16 We have 250 lawyers practicing in about eight offices in
17 Michigan and other offices outside of Michigan.

18 Q How long have you been with Miller Canfield?

19 A I've been with Miller Canfield since 1984.

20 Q And during your tenure with the firm, have you
21 held any offices in the firm?

22 A Yes, I have.

23 In 1985, I was elected to what's called the
24 Managing Partner Board, which is like the board of

25 directors, and I sat on that board for eight years. During

1 two of those years, I served as chairman of the board, as
2 well as chairman of the firm.

3 I've been the resident director of the Kalamazoo
4 office for all of the years since the last two years, and
5 I've been the chair of our west Michigan practice group,
6 business group, and I still am the chair since I began with
7 the firm.

8 Q That anticipates my next question. I was going to
9 ask if you have a particular area of practice in which you
10 concentrate.

11 A I've practiced all of my life in the business law
12 areas.

13 Q Business law entails primarily what sort of work?

14 A Well, part of my practice is counseling
15 businesses, all sorts of questions, and another part is
16 doing transactions.

17 Q And in your time and practice, about how many
18 transactions would you estimate you've done?

19 A I think it's over 200 transactions.

20 Q And out of those transactions, about how many of
21 them have involved radio stations?

22 A I believe I've done about 10 radio station deals.

23 Q Have you done any transactions involving non-
24 broadcast FCC licenses?

25 A There may be a couple of transactions where FCC

1 license were involved such as for radios for trucks or
2 something like that.

3 Q Of those 10 transactions in the radio area that
4 you've done, did you do those for a wide number of clients?

5 A No, just a couple of clients.

6 Q How many of those transactions have you done for
7 Mr. Hicks?

8 A I think I've done about five or six for Mr. Hicks.

9 Q So about half of your work, half of your radio
10 transaction work has been on behalf of Mr. Hicks?

11 A That's right.

12 Q Outside of your actual practice of law, your
13 representation of clients, have you been involved in any
14 activities or professional organizations related to your
15 area of practice?

16 A I've been involved with the business law section
17 of the American Bar Association. For about 10 years, I've
18 been a member of the Negotiated Acquisitions Committee,
19 which committee recently published a model stock purchase
20 agreement and currently I'm working on a model asset
21 purchase agreement and a model joint venture agreement with
22 that committee.

23 Q Anything other than the National Bar Association?

24 A I served on the Michigan Bar Association business
25 law section council. You get elected to that council.

1 There is a maximum term of six years and I served on that
2 council for six years.

3 Q Other than your activities with the Bar
4 Association, are there other organizations or activities
5 that you're involved in that bring you into contact with
6 transactional work or deals?

7 A Up until about two years ago, I sat on a board of
8 directors of a bank and/or a bank holding company since
9 1970. Since these were not large banks, the board
10 functioned at time like a loan committee and I saw a lot of
11 loan transactions as a result of that activity.

12 Q So between your work on behalf of your clients in
13 the 200 transactions you've done, and the work you've done
14 in the ABA on model asset purchase agreements an other types
15 of transactional instructions and your work with the bank,
16 you've had occasion to see quite a number of transactions?

17 A Yes, I have.

18 Q Have you had occasion during all of your work on
19 the different radio deals to develop any FCC expertise?

20 A I'm certainly not an expert in FCC law. I have
21 some familiarity with the rules, things I've learned by
22 participating in those transactions.

23 Q On those deals involving FCC licenses of primarily
24 broad stations, who did the -- who was responsible for the
25 FCC work?

1 A I think on every deal I worked on there was always
2 an FCC attorney who was responsibility for those activities.

3 Q Okay. So you were never primarily responsible for
4 them yourself?

5 A Never.

6 Q In particular, in the work on behalf of Mr. Hicks'
7 transactions, who had you primarily worked with?

8 A I think in the beginning, which would have been
9 1985, I worked with a firm/person, Ball & Douth, which I
10 don't believe is around anymore, and I remember the first
11 lawyer was a man by the name of Robert Yoroughty, and then a
12 person by the name of Bill Green.

13 Q Draw your attention to WRBR's transaction, which
14 took place in 1993-1994. At that time were you still
15 engaged at various points in representing Mr. Hicks?

16 A Yes.

17 Q And who had been working for Mr. Hicks in those
18 later years doing FCC work?

19 A Somewhere in the later years, Mr. Green retired,
20 and if my memory serves me correctly, there wasn't an
21 occasion in those later years to have an FCC lawyer
22 involved.

23 Q When you were working on these transactions, what
24 sort of a relationship did you have FCC counsel?

25 A Generally, I had a close relationship. Whenever

1 we were working on documents, I circulated copies of the
2 documents to FCC counsel, obtained comments from counsel.

3 Q Did you seek counsel advice on whether certain
4 things were consistent or inconsistent with FCC rules?

5 A Yes, I did.

6 Q So you would generally leave FCC compliance
7 matters to be handled by the outside FCC counsel?

8 A Yes.

9 Q I think you've mentioned before that, although
10 you're not an FCC legal expert, you have had some occasion
11 to develop some familiarity with the FCC's rules during the
12 course of some of your work.

13 Can you tell me what sort of rules or policies, in
14 particular, you've become acquainted with?

15 A Well, during the course of representing Dave
16 Hicks, I was familiar with certain rules such as the
17 dualopoly rules which came into being which, as I understand
18 it, permitted stations in the same market to come together.
19 I was familiar with the joint operating agreements which
20 permitted cooperation between two stations. I was familiar
21 with the change, I believe, in the rules with regard to the
22 number of stations that any person could own, for example.

23 Q Is it fair to say that when you were working on a
24 radio station deal you were aware of FCC -- that FCC rules
25 and policies could impact the transaction and could affect

1 the way the business deal was structured?

2 A Yes.

3 Q I'd like to talk a little bit about your
4 relationship with the representation of Mr. Hicks.

5 How did you first come to know Mr. Hicks?

6 A I was introduced to Dave Hicks by an accountant by
7 the name of Charlie McNealy, who is a partner at BDO
8 Seidman.

9 Q And when was that?

10 A That was either in late 1984 or early 1985.

11 Q What were the circumstances of the introduction?

12 A At that time Dave Hicks was general manager of a
13 station in Battlecreek, and he was attempting to see if he
14 could purchase that station.

15 Q Do you know which station it was?

16 A WKFR, WKNR, it could be. I'm not about the
17 numbers. It was an FM and an AM.

18 Q So it was a two-station combination?

19 A Two-station combination. I remember the owner of
20 the station was a company headquartered in Maryland.

21 Q What was the purpose that Mr. McNealy had
22 introduced you to Mr. Hicks?

23 A To provide the legal services in the event that
24 Dave Hicks could buy the station.

25 Q So your first encounter was Mr. Hicks was in a

1 professional context?

2 A Yes.

3 Q And you first met Mr. Hicks at the time you were
4 introduced by Mr. McNealy?

5 A Yes.

6 Q That was in 1985. So you've know him for about 13
7 years?

8 A It would have had to be early 1985 because I
9 believe that deal closed in the middle of 1985.

10 Q So you've known him for about 13 years?

11 A Yes.

12 Q Do you still represent Mr. Hicks?

13 A No, I do not.

14 Q When did you stop representing him?

15 A When the Crystal litigation started, so is that
16 1994?

17 Q Now, you had said that you had done about half of
18 your deal with -- half of your radio station deals with Mr.
19 Hicks.

20 Could you tell us what -- could you specifically
21 identify for us which transactions you've done for him over
22 the course of your representation?

23 A Well, the first one was when he purchased the two
24 stations in Battlecreek. Thereafter, his company, Hicks
25 Broadcasting Corporation, purchased a WKMI, which was a

1 substantially larger AM station.

2 Q When was that?

3 A When was that?

4 I think it was about a year later.

5 Q A year after his purchase of WKNR and KFR?

6 A Yes.

7 As a result of that purchase, the company was
8 required to sell its AM station that it owned, so I
9 represented him in that transaction.

10 Q In that transaction, to whom was that station
11 sold?

12 A That station was sold to his children.

13 Q Okay. Did you work with FCC counsel on that
14 transaction?

15 A I did.

16 Q Would that have been Mr. Green?

17 A That would have been Mr. Green.

18 Q And after the sale of WKNR, what was the next
19 transaction that you had worked on?

20 A There was a transaction with a lawyer in
21 Philadelphia, Reagan Henry, where we signed an agreement to
22 sell the business.

23 Q And to sell Mr. Hicks' radio station?

24 A Yes.

25 Q And would you tell me a little bit about that?

1 What happened with that?

2 A That was about 1989 or '90, and at that time Mr.
3 Henry owned as many stations, I guess, as a person could by
4 FCC rules, so that he caused the formation of a company with
5 his children, owning a minority interest, and another man
6 who was the, I believe, the president of Temple University
7 owning the majority interest, and it was that entity that
8 entered into the agreement.

9 Q What became of that transaction?

10 A He was -- well, they were unable to get financing,
11 and ultimately forfeited the escrow. It was a pretty
12 substantial escrow deposit so I remember quite vividly.

13 Q What was that -- you had said you had signed a
14 purchase agreement with the buyers, was an application filed
15 with the Commission?

16 A Yes.

17 Q And what was the disposition of the application?

18 A Well, I believe it was approved.

19 Q So it was only after the approval that the
20 purchasers --

21 A The purchaser was unable to obtain financing and
22 defaulted on the agreement.

23 Q Did you work with FCC counsel on that transaction?

24 A I did.

25 Q Did the purchasers have FCC counsel?

1 A They did.

2 Q After the unfortunate transaction with Mr. Henry,
3 what was the next transaction you had occasion to work on
4 for Mr. Hicks?

5 A I believe the next transaction was the Crystal
6 Radio transaction.

7 Q And that was the merger of Mr. Hicks' company,
8 Hicks Broadcasting Corporation?

9 A Yes.

10 Q With?

11 A With Airborne, what was known as Airborne.

12 Q And after -- when did that deal close?

13 A That deal closed in the middle of 1993.

14 Q And --

15 A Airborne actually merged with and into Hicks, and
16 Hicks changed its name to Crystal.

17 Q So it was Hicks Broadcasting Corporation?

18 A Yes.

19 Q After the Crystal Radio merger, what was the next
20 transaction you had occasion to work on?

21 A I think the next transaction was the WRBR
22 transaction, which is a radio station in South Bend.

23 Q And by your earlier count, that was the last --
24 that was the last matter you worked on for Mr. Hicks?

25 A Yes.

1 Q Now, when you were representing him, what was Mr.
2 Hicks like as a client?

3 A Well, he was a good client. I found him easy to
4 work with, enjoyed working with him.

5 Q More specifically, I'm interested in what sort of,
6 what sort of working relationship you had in the way you
7 communicated with one another and the -- in proceeding
8 through the transactions.

9 How was he engaged in working with you on
10 negotiations and review of documents and so forth?

11 A I found him to be a person who focused primarily
12 on the business side of aspects of a transaction, and he
13 would tend to leave the legal details to somebody else, to
14 me or somebody else.

15 Q When you say he was primarily focused on the
16 business points, what sort of things did you mean?

17 A Things such as the purchase price, the terms of
18 payment, that sort of thing.

19 Q And the types of details that he would primarily
20 leave to counsel consisted of what?

21 A Well, I guess what I would call some of the legal
22 side of things. For example, in a transaction might be the
23 representations and warranties, the covenants of the
24 parties, such things as should there be arbitration, place
25 of the law, the jurisdiction, something like that.

1 Q So when you send him materials to review, it was
2 your sense that he was primarily looking over the business
3 points?

4 A Yes. That's not unusual, I find.

5 Q In terms of actually hammering out the hard
6 language of the documents and so forth, did he take a strong
7 hand in that or did he primarily leave those sorts of
8 matters to you?

9 A He primarily left those matters to me.

10 Q Did he strike you as sophisticated about legal
11 matters?

12 A He certainly became more knowledgeable about legal
13 matters as the time went on. Probably very sophisticated
14 about legal matters at this point.

15 Q Now, you said he mostly focused on business
16 points. Do you have any sort of a sense or occasion to
17 observe what sort of a businessman he is?

18 A Well, I don't know whether I'd be qualified to
19 make that sort of a judgment.

20 Q Fair enough.

21 In addition to the professional work that you've
22 done for Mr. Hicks, have you had any sort of social
23 relationship with him?

24 A Yes, I have.

25 Q What sort of relationship would that be?

1 A Well, after we became acquainted in a professional
2 way, we became friends socially. We would have dinner on
3 occasion with our wives. I think I attended his daughter's
4 wedding.

5 Q Would you characterize him as a friend?

6 A Yes, I would.

7 Q A close friend?

8 A Well, I haven't really seen him much or talked
9 with him much in the last several years, but I think there
10 was a time when he was a close friend, yes.

11 Q Now, you said you haven't really kept in touch
12 with him. What precipitated the --

13 A When the Crystal litigation started, I guess
14 everyone's counsel thought it was best that we not continue
15 to see one another and we didn't.

16 Q Okay. How often would you say you would see him
17 or speak to him now?

18 A Well, very infrequently. Maybe once every six
19 months.

20 Q When was the last time that you spoke with him?

21 A Well, I believe I spoke to him in the courtroom
22 here when I came in.

23 Q Okay. Let's move on to your engagement for the
24 WRBR acquisition.

25 Did there come a time when Mr. Hicks asked you to

1 represent him in the purchase of WRBR?

2 A Yes.

3 Q And when would that have been?

4 A That would have been in September of 1993.

5 Q What was the nature of that conduct?

6 A Well, I believe he called me, came in to see me,
7 and told me about his interest in the South Bend station.

8 Q Anything more than that?

9 A No, not -- not much more.

10 Q At the point that he contacted you about WRBR,
11 what was to be the scope of your representation?

12 A Well, at the outset I understood the scope of my
13 representation would be to represent him.

14 Q That later changed?

15 A Yes, it did.

16 Q How?

17 A I ended up representing the entity that became the
18 purchaser as well as Dave Hicks, one of the members of a
19 limited liability company.

20 Q In what connection were you representing Mr. Hicks
21 personally?

22 A In connection with his rights as among the other
23 owners.

24 Q In the WRBR purchase were you responsible for the
25 FCC matters?

1 A No.

2 Q Who was?

3 A Alan Campbell.

4 Q After you were first contacted by Mr. Hicks in
5 this call or meeting that you mentioned a moment ago, what
6 happened?

7 A I think I next spoke to John Dille by telephone.

8 Q When would that have been?

9 A September of 1993.

10 Q And what was the nature of that call?

11 A Well, he introduce himself. Apparently we had
12 gone to high school together, and explained to me the
13 situation surrounding the South Bend station, and what the
14 status of the matter was at that time, and made arrangements
15 to come and visit with me and David.

16 Q When you were speaking with Mr. Hicks and then
17 with Mr. Dille, what were you generally told about the deal?

18 A I was told that John Booth, through a company
19 which he owned, owned a station in South Bend. That's the
20 station we're speaking about, and that he wanted and needed
21 to sell that station to do some other transaction; that that
22 station had recently entered into an agreement, a JOA
23 agreement it was referred to, I believe, with one of the
24 stations owned by the Dilles; that Mr. Dille had wanted to
25 acquire the station but that it would require a waiver

1 because of the ownership of a newspaper, I believe, in
2 Elkart, which his family owned.

3 Q Did you have any understanding at that point as to
4 whether Mr. Dille had engaged in any negotiations with Mr.
5 Booth for the purchase of the station?

6 A Well, as I remember, there -- I was told that
7 there was a proposal at that time on the table between Mr.
8 Booth and Mr. Dille.

9 Q Did you come to learn anything about what Mr.
10 Booth's response was to Mr. Dille's situation insofar as the
11 waiver was concerned?

12 A Yes, I did.

13 Q And what was that?

14 A That -- I was told that Mr. Booth wanted to have a
15 transaction completed as soon as possible and didn't want to
16 wait for the time which would be required for obtaining a
17 waiver.

18 Q And so what was his -- how did that impact -- did
19 you learn how did that ever impact the negotiations that Mr.
20 Dille had been taking with Mr. Booth?

21 A I'm not sure I understand your question.

22 Q Well, you had testified that Mr. Dille had been
23 negotiation with Mr. Booth for the purchase of the station,
24 and that he had determined that in order to go forward with
25 the deal he would have to obtain a waiver from the FCC; and

1 that Mr. Booth had indicated that he didn't desire to wait
2 for a waiver.

3 So I guess my question was at that point, during
4 your conversations with Mr. Hicks and Mr. Booth, did you
5 ever learn -- pardon me -- Mr. Hicks and Mr. Dille, did you
6 ever learn what Mr. Booth had said about going forward with
7 this transaction with Mr. Dille?

8 A Well, if I understand your question, I was told
9 that Mr. Booth would not proceed with a transaction which
10 required a waiver because he felt that too much time would
11 be required.

12 Q And did you come to learn what Mr. Dille's
13 response was to receiving that news from Mr. Booth?

14 A Yes.

15 Q What was that?

16 A Mr. Dille was anxious to preserve the joint
17 operating agreement, which I think had been entered into
18 fairly near that time.

19 JUDGE CHACHKIN: All right, the story will be
20 continued tomorrow at nine a.m.

21 (Whereupon, at 4:00 p.m., the hearing was
22 recessed, to resume at 9:00 a.m., on Wednesday, November 4,
23 1998.)

24

25

REPORTER'S CERTIFICATE

FCC DOCKET NO.: 98-66

CASE TITLE: IN RE: HICKS BROADCASTING

HEARING DATE: November 3, 1998

LOCATION: Washington, D.C.

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Communications Commission.

Date: 11-3-98

George Holmes *George Holmes*
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I hereby certify that the proceedings and evidence were fully and accurately transcribed from the tapes and notes provided by the above named reporter in the above case before the Federal Communications Commission.

Date: 11-3-98

Joyce Boe *Joyce Boe*
Official Transcriber
Heritage Reporting Corporation

PROOFREADER'S CERTIFICATE

I hereby certify that the transcript of the proceedings and evidence in the above referenced case that was held before the Federal Communications Commission was proofread on the date specified below.

Date: 11-3-98

Lorenzo Jones *Lorenzo Jones*
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